

ASSEMBLY BILL

No. 810

Introduced by Assembly Member Caballero

February 26, 2009

An act to amend Sections 65089.6, 65302, 66484, and 66484.3 of the Government Code, to amend Section 99150 of the Public Utilities Code, to amend Section 75.9 of the Streets and Highways Code, and to amend Sections 21101 and 35701 of the Vehicle Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 810, as introduced, Caballero. Circulation and transportation element.

Existing law requires a general plan to include a statement of development policies and, among other elements, a circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

This bill would rename the circulation element the circulation and transportation element and make other technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65089.6 of the Government Code is
2 amended to read:

1 65089.6. Failure to complete or implement a congestion
2 management program shall not give rise to a cause of action against
3 a city or county for failing to conform with its general plan, unless
4 the city or county incorporates the congestion management program
5 into the circulation *and transportation* element of its general plan.

6 SEC. 2. Section 65302 of the Government Code is amended
7 to read:

8 65302. The general plan shall consist of a statement of
9 development policies and shall include a diagram or diagrams and
10 text setting forth objectives, principles, standards, and plan
11 proposals. The plan shall include the following elements:

12 (a) A land use element that designates the proposed general
13 distribution and general location and extent of the uses of the land
14 for housing, business, industry, open space, including agriculture,
15 natural resources, recreation, and enjoyment of scenic beauty,
16 education, public buildings and grounds, solid and liquid waste
17 disposal facilities, and other categories of public and private uses
18 of land. The location and designation of the extent of the uses of
19 the land for public and private uses shall consider the identification
20 of land and natural resources pursuant to paragraph (3) of
21 subdivision (d). The land use element shall include a statement of
22 the standards of population density and building intensity
23 recommended for the various districts and other territory covered
24 by the plan. The land use element shall identify and annually
25 review those areas covered by the plan that are subject to flooding
26 identified by flood plain mapping prepared by the Federal
27 Emergency Management Agency (FEMA) or the Department of
28 Water Resources. The land use element shall also do both of the
29 following:

30 (1) Designate in a land use category that provides for timber
31 production those parcels of real property zoned for timberland
32 production pursuant to the California Timberland Productivity Act
33 of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1
34 of Division 1 of Title 5).

35 (2) Consider the impact of new growth on military readiness
36 activities carried out on military bases, installations, and operating
37 and training areas, when proposing zoning ordinances or
38 designating land uses covered by the general plan for land, or other
39 territory adjacent to military facilities, or underlying designated
40 military aviation routes and airspace.

1 (A) In determining the impact of new growth on military
2 readiness activities, information provided by military facilities
3 shall be considered. Cities and counties shall address military
4 impacts based on information from the military and other sources.

5 (B) The following definitions govern this paragraph:

6 (i) “Military readiness activities” mean all of the following:

7 (I) Training, support, and operations that prepare the men and
8 women of the military for combat.

9 (II) Operation, maintenance, and security of any military
10 installation.

11 (III) Testing of military equipment, vehicles, weapons, and
12 sensors for proper operation or suitability for combat use.

13 (ii) “Military installation” means a base, camp, post, station,
14 yard, center, homeport facility for any ship, or other activity under
15 the jurisdiction of the United States Department of Defense as
16 defined in paragraph (1) of subsection (e) of Section 2687 of Title
17 10 of the United States Code.

18 (b) (1) A circulation *and transportation* element consisting of
19 the general location and extent of existing and proposed major
20 thoroughfares, transportation routes, terminals, any military airports
21 and ports, and other local public utilities and facilities, all correlated
22 with the land use element of the plan.

23 (2) (A) Commencing January 1, 2011, upon any substantive
24 revision of the circulation element, the legislative body shall
25 modify the circulation element to plan for a balanced, multimodal
26 transportation network that meets the needs of all users of streets,
27 roads, and highways for safe and convenient travel in a manner
28 that is suitable to the rural, suburban, or urban context of the
29 general plan.

30 (B) For purposes of this paragraph, “users of streets, roads, and
31 highways” means bicyclists, children, persons with disabilities,
32 motorists, movers of commercial goods, pedestrians, users of public
33 transportation, and seniors.

34 (c) A housing element as provided in Article 10.6 (commencing
35 with Section 65580).

36 (d) (1) A conservation element for the conservation,
37 development, and utilization of natural resources including water
38 and its hydraulic force, forests, soils, rivers and other waters,
39 harbors, fisheries, wildlife, minerals, and other natural resources.

40 The conservation element shall consider the effect of development

1 within the jurisdiction, as described in the land use element, on
2 natural resources located on public lands, including military
3 installations. That portion of the conservation element including
4 waters shall be developed in coordination with any countywide
5 water agency and with all district and city agencies, including
6 flood management, water conservation, or groundwater agencies
7 that have developed, served, controlled, managed, or conserved
8 water of any type for any purpose in the county or city for which
9 the plan is prepared. Coordination shall include the discussion and
10 evaluation of any water supply and demand information described
11 in Section 65352.5, if that information has been submitted by the
12 water agency to the city or county.

13 (2) The conservation element may also cover all of the
14 following:

15 (A) The reclamation of land and waters.

16 (B) Prevention and control of the pollution of streams and other
17 waters.

18 (C) Regulation of the use of land in stream channels and other
19 areas required for the accomplishment of the conservation plan.

20 (D) Prevention, control, and correction of the erosion of soils,
21 beaches, and shores.

22 (E) Protection of watersheds.

23 (F) The location, quantity and quality of the rock, sand and
24 gravel resources.

25 (3) Upon the next revision of the housing element on or after
26 January 1, 2009, the conservation element shall identify rivers,
27 creeks, streams, flood corridors, riparian habitats, and land that
28 may accommodate floodwater for purposes of groundwater
29 recharge and stormwater management.

30 (e) An open-space element as provided in Article 10.5
31 (commencing with Section 65560).

32 (f) (1) A noise element that shall identify and appraise noise
33 problems in the community. The noise element shall recognize the
34 guidelines established by the Office of Noise Control and shall
35 analyze and quantify, to the extent practicable, as determined by
36 the legislative body, current and projected noise levels for all of
37 the following sources:

38 (A) Highways and freeways.

39 (B) Primary arterials and major local streets.

1 (C) Passenger and freight ~~on-line~~ *online* railroad operations and
2 ground rapid transit systems.

3 (D) Commercial, general aviation, heliport, helistop, and military
4 airport operations, aircraft overflights, jet engine test stands, and
5 all other ground facilities and maintenance functions related to
6 airport operation.

7 (E) Local industrial plants, including, but not limited to, railroad
8 classification yards.

9 (F) Other ground stationary noise sources, including, but not
10 limited to, military installations, identified by local agencies as
11 contributing to the community noise environment.

12 (2) Noise contours shall be shown for all of these sources and
13 stated in terms of community noise equivalent level (CNEL) or
14 day-night average level (L_{dn}). The noise contours shall be prepared
15 on the basis of noise monitoring or following generally accepted
16 noise modeling techniques for the various sources identified in
17 ~~paragraphs (1) to (6)~~ *subparagraphs (A) to (F)*, inclusive of
18 *paragraph (1)*.

19 (3) The noise contours shall be used as a guide for establishing
20 a pattern of land uses in the land use element that minimizes the
21 exposure of community residents to excessive noise.

22 (4) The noise element shall include implementation measures
23 and possible solutions that address existing and foreseeable noise
24 problems, if any. The adopted noise element shall serve as a
25 guideline for compliance with the state's noise insulation standards.

26 (g) (1) A safety element for the protection of the community
27 from any unreasonable risks associated with the effects of
28 seismically induced surface rupture, ground shaking, ground
29 failure, tsunami, seiche, and dam failure; slope instability leading
30 to mudslides and landslides; subsidence; liquefaction; and other
31 seismic hazards identified pursuant to Chapter 7.8 (commencing
32 with Section 2690) of Division 2 of the Public Resources Code,
33 and other geologic hazards known to the legislative body; flooding;
34 ~~and wildland~~ *wild land* and urban fires. The safety element shall
35 include mapping of known seismic and other geologic hazards. It
36 shall also address evacuation routes, military installations, peakload
37 water supply requirements, and minimum road widths and
38 clearances around structures, as those items relate to identified fire
39 and geologic hazards.

(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:

(i) Flood hazard zones. As used in this subdivision, “flood hazard zone” means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency. The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage.

(ii) National Flood Insurance Program maps published by FEMA.

(iii) Information about flood hazards that is available from the United States Army Corps of Engineers.

(iv) Designated floodway maps that are available from the Central Valley Flood Protection Board.

(v) Dam failure inundation maps prepared pursuant to Section 8589.5 that are available from the Office of Emergency Services.

(vi) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.

(vii) Maps of levee protection zones.

(viii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.

(ix) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding.

(x) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities.

(xi) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

1 (i) Avoiding or minimizing the risks of flooding to new
2 development.

3 (ii) Evaluating whether new development should be located in
4 flood hazard zones, and identifying construction methods or other
5 methods to minimize damage if new development is located in
6 flood hazard zones.

7 (iii) Maintaining the structural and operational integrity of
8 essential public facilities during flooding.

9 (iv) Locating, when feasible, new essential public facilities
10 outside of flood hazard zones, including hospitals and health care
11 facilities, emergency shelters, fire stations, emergency command
12 centers, and emergency communications facilities or identifying
13 construction methods or other methods to minimize damage if
14 these facilities are located in flood hazard zones.

15 (v) Establishing cooperative working relationships among public
16 agencies with responsibility for flood protection.

17 (C) Establish a set of feasible implementation measures designed
18 to carry out the goals, policies, and objectives established pursuant
19 to subparagraph (B).

20 (3) After the initial revision of the safety element pursuant to
21 paragraph (2), upon each revision of the housing element, the
22 planning agency shall review and, if necessary, revise the safety
23 element to identify new information that was not available during
24 the previous revision of the safety element.

25 (4) Cities and counties that have flood plain management
26 ordinances that have been approved by FEMA that substantially
27 comply with this section, or have substantially equivalent
28 provisions to this subdivision in their general plans, may use that
29 information in the safety element to comply with this subdivision,
30 and shall summarize and incorporate by reference into the safety
31 element the other general plan provisions or the flood plain
32 ordinance, specifically showing how each requirement of this
33 subdivision has been met.

34 (5) Prior to the periodic review of its general plan and prior to
35 preparing or revising its safety element, each city and county shall
36 consult the ~~California Geological Survey~~ *Division of Mines and*
37 *Geology* of the Department of Conservation, the Central Valley
38 Flood Protection Board, if the city or county is located within the
39 boundaries of the Sacramento and San Joaquin Drainage District,
40 as set forth in Section 8501 of the Water Code, and the Office of

Emergency Services for the purpose of including information known by and available to the department, the office, and the board required by this subdivision.

(6) To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

SEC. 3. Section 66484 of the Government Code is amended to read:

66484. (a) A local ordinance may require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares. The ordinance may require payment of fees pursuant to this section if all of the following requirements are satisfied:

(1) The ordinance refers to the circulation *and transportation* element of the general plan and, in the case of bridges, to the transportation or flood control provisions thereof—~~which that~~ identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads and in the case of major thoroughfares, to the provisions of the circulation *and transportation* element—~~which that~~ identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to the state highway system, if the circulation *and transportation* element, transportation or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65091 and shall include preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements—~~which that~~ are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of

1 benefit and fee apportionment are established. The method of fee
2 apportionment, in the case of major thoroughfares, shall not provide
3 for higher fees on land ~~which~~ *that* abuts the proposed improvement
4 except where the abutting property is provided direct usable access
5 to the major thoroughfare. A description of the boundaries of the
6 area of benefit, the costs, whether actual or estimated, and the
7 method of fee apportionment established at the hearing shall be
8 incorporated in a resolution of the governing body, a certified copy
9 of which shall be recorded by the governing body conducting the
10 hearing with the recorder of the county in which the area of benefit
11 is located. The apportioned fees shall be applicable to all property
12 within the area of benefit and shall be payable as a condition of
13 approval of a final map or as a condition of issuing a building
14 permit for the property or portions of the property. Where the area
15 of benefit includes lands not subject to the payment of fees pursuant
16 to this section, the governing agency shall make provision for
17 payment of the share of improvement costs apportioned to those
18 lands from other sources.

19 (4) The ordinance provides that payment of fees shall not be
20 required unless the major thoroughfares are in addition to, or a
21 reconstruction of, any existing major thoroughfares serving the
22 area at the time of the adoption of the boundaries of the area of
23 benefit.

24 (5) The ordinance provides that payment of fees shall not be
25 required unless the planned bridge facility is an original bridge
26 serving the area or an addition to any existing bridge facility
27 serving the area at the time of the adoption of the boundaries of
28 the area of benefit. The fees shall not be expended to reimburse
29 the cost of existing bridge facility construction.

30 (6) The ordinance provides that if, within the time when protests
31 may be filed under the provisions of the ordinance, there is a
32 written protest, filed with the clerk of the legislative body, by the
33 owners of more than one-half of the area of the property to be
34 benefited by the improvement, and sufficient protests are not
35 withdrawn so as to reduce the area represented to less than one-half
36 of that to be benefited, then the proposed proceedings shall be
37 abandoned, and the legislative body shall not, for one year from
38 the filing of that written protest, commence or carry on any
39 proceedings for the same improvement or acquisition under the
40 provisions of this section.

1 (b) Any protest may be withdrawn by the owner protesting, in
2 writing, at any time prior to the conclusion of a public hearing held
3 pursuant to the ordinance.

4 (c) If any majority protest is directed against only a portion of
5 the improvement then all further proceedings under the provisions
6 of this section to construct that portion of the improvement so
7 protested against shall be barred for a period of one year, but the
8 legislative body may commence new proceedings not including
9 any part of the improvement or acquisition so protested against.
10 Nothing in this section prohibits a legislative body, within that
11 one-year period, from commencing and carrying on new
12 proceedings for the construction of a portion of the improvement
13 so protested against if it finds, by the affirmative vote of four-fifths
14 of its members, that the owners of more than one-half of the area
15 of the property to be benefited are in favor of going forward with
16 that portion of the improvement or acquisition.

17 (d) Nothing in this section precludes the processing and
18 recordation of maps in accordance with other provisions of this
19 division if the proceedings are abandoned.

20 (e) Fees paid pursuant to an ordinance adopted pursuant to this
21 section shall be deposited in a planned bridge facility or major
22 thoroughfare fund. A fund shall be established for each planned
23 bridge facility project or each planned major thoroughfare project.
24 If the benefit area is one in which more than one bridge is required
25 to be constructed, a fund may be so established covering all of the
26 bridge projects in the benefit area. Money in the fund shall be
27 expended solely for the construction or reimbursement for
28 construction of the improvement serving the area to be benefited
29 and from which the fees comprising the fund were collected, or to
30 reimburse the local agency for the cost of constructing the
31 improvement.

32 (f) An ordinance adopted pursuant to this section may provide
33 for the acceptance of considerations in lieu of the payment of fees.

34 (g) A local agency imposing fees pursuant to this section may
35 advance money from its general fund or road fund to pay the cost
36 of constructing the improvements and may reimburse the general
37 fund or road fund for any advances from planned bridge facility
38 or major thoroughfares funds established to finance the construction
39 of those improvements.

1 (h) A local agency imposing fees pursuant to this section may
2 incur an interest-bearing indebtedness for the construction of bridge
3 facilities or major thoroughfares. However, the sole security for
4 repayment of that indebtedness shall be moneys in planned bridge
5 facility or major thoroughfares funds.

6 (i) The term “construction” as used in this section includes
7 design, acquisition of right-of-way, administration of construction
8 contracts, and actual construction.

9 (j) The term “construction,” as used in this section, with respect
10 to the unincorporated area of San Diego County only, includes
11 design, acquisition of rights-of-way, and actual construction,
12 including, but not limited to, all direct and indirect environmental,
13 engineering, accounting, legal, administration of construction
14 contracts, and other services necessary therefor. The term
15 “construction,” with respect to the unincorporated area of San
16 Diego County only, also includes reasonable administrative
17 expenses, not exceeding three hundred thousand dollars (\$300,000)
18 in any calendar year after January 1, 1986, as adjusted annually
19 for any increase or decrease in the Consumer Price Index of the
20 Bureau of Labor Statistics of the United States Department of
21 Labor for all Urban Consumers, San Diego, California (1967 =
22 100), as published by the United States Department of Commerce
23 for the purpose of constructing bridges and major thoroughfares.
24 “Administrative expenses” means those office, personnel, and
25 other customary and normal expenses associated with the direct
26 management and administration of the agency, but not including
27 costs of construction.

28 (k) Nothing in this section precludes a county or city from
29 providing funds for the construction of bridge facilities or major
30 thoroughfares to defray costs not allocated to the area of benefit.

31 SEC. 4. Section 66484.3 of the Government Code is amended
32 to read:

33 66484.3. (a) Notwithstanding Section 53077.5, the Board of
34 Supervisors of the County of Orange and the city council or
35 councils of any city or cities in that county may, by ordinance,
36 require the payment of a fee as a condition of approval of a final
37 map or as a condition of issuing a building permit for purposes of
38 defraying the actual or estimated cost of constructing bridges over
39 waterways, railways, freeways, and canyons, or constructing major
40 thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation *and transportation* element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan ~~which that~~ identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads, and in the case of major thoroughfares, to the provisions of the circulation *and transportation* element ~~which that~~ identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or ~~which that~~ is part of the state highway system, and the circulation *and transportation* element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit. Bridges ~~which that~~ are part of a major thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements ~~which that~~ are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land ~~which that~~ abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the County of Orange. The resolution

1 may subsequently be modified in any respect by the governing
2 body. Modifications shall be adopted in the same manner as the
3 original resolution, except that the resolution of a city or county
4 ~~which~~ *that* has entered into a joint exercise of powers agreement
5 pursuant to subdivision (f), relating to constructing bridges over
6 waterways, railways, freeways, and canyons or constructing major
7 thoroughfares by the joint powers agency, may be modified by the
8 joint powers agency following public notice and a public hearing,
9 if the joint powers agency has complied with all applicable laws,
10 including Chapter 5 (commencing with Section 66000) of Division
11 1. Any modification shall be subject to the protest procedures
12 prescribed by paragraph (6). The resolution may provide for
13 automatic periodic adjustment of fees based upon the California
14 Construction Cost Index prepared and published by the Department
15 of Transportation, without further action of the governing body,
16 including, but not limited to, public notice or hearing. The
17 apportioned fees shall be applicable to all property within the area
18 of benefit and shall be payable as a condition of approval of a final
19 map or as a condition of issuing a building permit for any of the
20 property or portions of the property. Where the area of benefit
21 includes lands not subject to the payment of fees pursuant to this
22 section, the governing body shall make provision for payment of
23 the share of improvement costs apportioned to those lands from
24 other sources, but those sources need not be identified at the time
25 of the adoption of the resolution.

26 (4) The ordinance provides that payment of fees shall not be
27 required unless the major thoroughfares are in addition to, or a
28 reconstruction or widening of, any existing major thoroughfares
29 serving the area at the time of the adoption of the boundaries of
30 the area of benefit.

31 (5) The ordinance provides that payment of fees shall not be
32 required unless the planned bridge facility is an original bridge
33 serving the area or an addition to any existing bridge facility
34 serving the area at the time of the adoption of the boundaries of
35 the area of benefit. Fees imposed pursuant to this section shall not
36 be expended to reimburse the cost of existing bridge facility
37 construction, unless these costs are incurred in connection with
38 the construction of an addition to an existing bridge for which fees
39 may be required.

(6) The ordinance provides that if, within the time when protests may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under this section, unless the protests are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

If the provisions of this paragraph—(6), or provisions implementing this paragraph contained in any ordinance adopted pursuant to this section, are held invalid, that invalidity shall not affect other provisions of this section or of the ordinance adopted pursuant thereto, which can be given effect without the invalid provision, and to this end the provisions of this section and of an ordinance adopted pursuant thereto are severable.

1 (c) Fees paid pursuant to an ordinance adopted pursuant to this
2 section shall be deposited in a planned bridge facility or major
3 thoroughfare fund. A fund shall be established for each planned
4 bridge facility project or each planned major thoroughfare project.
5 If the benefit area is one in which more than one bridge or major
6 thoroughfare is required to be constructed, a fund may be so
7 established covering all of the bridge or major thoroughfare
8 projects in the benefit area. Except as otherwise provided in
9 subdivision (g), moneys in the fund shall be expended solely for
10 the construction or reimbursement for construction of the
11 improvement serving the area to be benefited and from which the
12 fees comprising the fund were collected, or to reimburse the county
13 or a city for the cost of constructing the improvement.

14 (d) An ordinance adopted pursuant to this section may provide
15 for the acceptance of considerations in lieu of the payment of fees.

16 (e) The county or a city imposing fees pursuant to this section
17 may advance money from its general fund or road fund to pay the
18 cost of constructing the improvements and may reimburse the
19 general fund or road fund from planned bridge facilities or major
20 thoroughfares funds established to finance the construction of the
21 improvements.

22 (f) The county or a city imposing fees pursuant to this section
23 may incur an interest-bearing indebtedness for the construction of
24 bridge facilities or major thoroughfares. The sole security for
25 repayment of the indebtedness shall be moneys in planned bridge
26 facilities or major thoroughfares funds. A city or county imposing
27 fees pursuant to this section may enter into joint exercise of powers
28 agreements with other local agencies imposing fees pursuant to
29 this section, for the purpose of, among others, jointly exercising
30 as a duly authorized original power established by this section, in
31 addition to those through a joint exercise of powers agreement,
32 those powers authorized in Chapter 5 (commencing with Section
33 31100) of Division 17 of the Streets and Highways Code for the
34 purpose of constructing bridge facilities and major thoroughfares
35 in lieu of a tunnel and appurtenant facilities, and, notwithstanding
36 Section 31200 of the Streets and Highways Code, may acquire by
37 dedication, gift, purchase, or eminent domain, any franchise, rights,
38 privileges, easements, or other interest in property, either real or
39 personal, necessary therefor on segments of the state highway
40 system, including, but not limited to, those segments of the state

1 highway system eligible for federal participation pursuant to Title
2 23 of the United States Code.

3 An entity constructing bridge facilities and major thoroughfares
4 pursuant to this section shall design and construct the bridge
5 facilities and major thoroughfares to the standards and
6 specifications of the Department of Transportation then in effect,
7 and may, at any time, transfer all or a portion of the bridge facilities
8 and major thoroughfares to the state subject to the terms and
9 conditions as shall be satisfactory to the Director of the Department
10 of Transportation. Any of these bridge facilities and major
11 thoroughfares shall be designated as a portion of the state highway
12 system prior to its transfer. The participants in a joint exercise of
13 powers agreement may also exercise as a duly authorized original
14 power established by this section the power to establish and collect
15 toll charges only for paying for the costs of construction of the
16 major thoroughfare for which the toll is charged and for the costs
17 of collecting the tolls, except that a joint powers agency, which is
18 the lending agency, may, notwithstanding subdivision (c), make
19 toll revenues and fees imposed pursuant to this section available
20 to another joint powers agency, which is the borrowing agency,
21 established for the purpose of designing, financing, and
22 constructing coordinated and interrelated major thoroughfares, in
23 the form of a subordinated loan, to pay for the cost of construction
24 and toll collection of major thoroughfares other than the major
25 thoroughfares for which the toll or fee is charged, if the lending
26 agency has complied with all applicable laws, including Chapter
27 5 (commencing with Section 66000) of Division 1, and if the
28 borrowing agency is required to pay interest on the loan to the
29 lending agency at a rate equal to the interest rate charged on funds
30 loaned from the Pooled Money Investment Account. Prior to
31 executing the loan, the lending agency shall make all of the
32 following findings:

33 (1) The major thoroughfare for which the toll or fee is charged
34 will benefit from the construction of the major thoroughfare to be
35 constructed by the borrowing agency or will benefit financially
36 by a sharing of revenues with the borrowing agency.

37 (2) The lending agency will possess adequate financial resources
38 to fund all costs of construction of existing and future projects that
39 it plans to undertake prior to the final maturity of the loan, after
40 funding the loan, and taking into consideration its then existing

1 funds, its present and future obligations, and the revenues and fees
2 it expects to receive.

3 (3) The funding of the loan will not materially impair its
4 financial condition or operations during the term of the loan.

5 Major thoroughfares from which tolls are charged shall utilize
6 the toll collection equipment most capable of moving vehicles
7 expeditiously and efficiently, and which is best suited for that
8 purpose, as determined by the participants in the joint exercise of
9 powers agreement. However, in no event shall the powers
10 authorized in Chapter 5 (commencing with Section 31100) of
11 Division 17 of the Streets and Highways Code be exercised unless
12 a resolution is first adopted by the legislative body of the agency
13 finding that adequate funding for the portion of the cost of
14 constructing those bridge facilities and major thoroughfares not
15 funded by the development fees collected by the agency is not
16 available from any federal, state, or other source. Any major
17 thoroughfare constructed and operated as a toll road pursuant to
18 this section shall only be constructed parallel to other public
19 thoroughfares and highways.

20 (g) The term “construction,” as used in this section, includes
21 design, acquisition of rights-of-way, and actual construction,
22 including, but not limited to, all direct and indirect environmental,
23 engineering, accounting, legal, administration of construction
24 contracts, and other services necessary therefor. The term
25 “construction” also includes reasonable general agency
26 administrative expenses, not exceeding three hundred thousand
27 dollars (\$300,000) in any calendar year after January 1, 1986, as
28 adjusted annually for any increase or decrease in the Consumer
29 Price Index of the Bureau of Labor Statistics of the United States
30 Department of Labor for all Urban Consumers, Los Angeles-Long
31 Beach-Anaheim, California (1967=100), as published by the United
32 States Department of Commerce, by each agency created pursuant
33 to Article 1 (commencing with Section 6500) of Chapter 5 of
34 Division 7 of Title 1 for the purpose of constructing bridges and
35 major thoroughfares. “General agency administrative expenses”
36 means those office, personnel, and other customary and normal
37 expenses associated with the direct management and administration
38 of the agency, but not including costs of construction.

39 (h) Fees paid pursuant to an ordinance adopted pursuant to this
40 section may be utilized to defray all direct and indirect financing

1 costs related to the construction of the bridges and major
2 thoroughfares by the joint powers agency. Because the financing
3 costs of bridges and major thoroughfares for which a toll charge
4 shall be established or collected represent a necessary element of
5 the total cost of those bridges and major thoroughfares, the joint
6 powers agency constructing those facilities may include a charge
7 for financing costs in the calculation of the fee rate. The charge
8 shall be based on the estimated financing cost of any eligible
9 portion of the bridges and major thoroughfares for which tolls shall
10 be collected. The eligible portion shall be any or all portions of
11 the major thoroughfare for which a viable financial plan has been
12 adopted by the joint powers agency on the basis of revenues
13 reasonably expected by the joint powers agency to be available to
14 the thoroughfare, after consultation with representatives of the fee
15 payers. For purposes of calculating the charge, financing costs
16 shall include only reasonable allowances for payments and charges
17 for principal, interest, and premium on indebtedness, letter of credit
18 fees and charges, remarketing fees and charges, underwriters'
19 discount, and other costs of issuance, less net earnings on bridge
20 and major thoroughfare funds by the joint powers agency prior to
21 the opening of the facility to traffic after giving effect to any
22 payments from the fund to preserve the federal income tax
23 exemption on the indebtedness. For purposes of calculating the
24 charge for financing costs in the calculation of the fee rate only,
25 financing costs shall not include any allowance for the cost of any
26 interest paid on indebtedness with regard to each eligible portion
27 after the estimated opening of the portion to traffic as established
28 by the joint powers agency. Any and all challenges to any financial
29 plan or financing costs adopted or calculated pursuant to this
30 section shall be governed by subdivision (k).

31 (i) Nothing in this section shall be construed to preclude the
32 County of Orange or any city within that county from providing
33 funds for the construction of bridge facilities or major
34 thoroughfares to defray costs not allocated to the area of benefit.

35 (j) Any city within the County of Orange may require the
36 payment of fees in accordance with this section as to any property
37 in an area of benefit within the city's boundaries, for facilities
38 shown on its general plan or the county's general plan, whether
39 the facilities are situated within or outside the boundaries of the

1 city, and the county may expend fees for facilities or portions
2 thereof located within cities in the county.

3 (k) The validity of any fee required pursuant to this section shall
4 not be contested in any action or proceeding unless commenced
5 within 60 days after recordation of the resolution described in
6 paragraph (3) of subdivision (b). The provisions of Chapter 9
7 (commencing with Section 860) of Title 10 of Part 2 of the Code
8 of Civil Procedure shall be applicable to ~~any such~~ *this* action or
9 proceeding. This subdivision shall also apply to modifications of
10 fee programs.

11 (l) If the County of Orange and any city within that county have
12 entered into a joint powers agreement for the purpose of
13 constructing the bridges and major thoroughfares referred to in
14 Sections 50029 and 66484.3, and if a proposed change of
15 organization or reorganization includes any territory of an area of
16 benefit established pursuant to Sections 50029 and 66484.3, within
17 a successor local agency, the local agency shall not take any action
18 that would impair, delay, frustrate, obstruct, or otherwise impede
19 the construction of the bridges and major thoroughfares referred
20 to in this section.

21 (m) Nothing in this section prohibits the succession of all
22 powers, obligations, liabilities, and duties of any joint powers
23 agency created pursuant to subdivision (l) to an entity with
24 comprehensive countywide transportation planning and operating
25 authority ~~which that~~ *that* is statutorily created in the County of Orange
26 and ~~which that~~ *that* is statutorily authorized to assume those powers,
27 obligations, liabilities, and duties.

28 SEC. 5. Section 99150 of the Public Utilities Code is amended
29 to read:

30 99150. In locating its bus stops, park and ride service facilities,
31 and special service terminal points and stations, a transit district
32 shall consult with, and consider the recommendations of, the city
33 if ~~such~~ transit facilities are to be located therein, or the county if
34 ~~such~~ transit facilities are to be located in the unincorporated area
35 thereof, on the proposed locations.

36 The city or county, as the case may be, in making its
37 recommendations to the transit district on the proposed location
38 of ~~any such~~ *the* transit facilities, shall consider whether the
39 proposed location is consistent with the circulation *and*
40 *transportation* element of its general plan.

1 SEC. 6. Section 75.9 of the Streets and Highways Code is
2 amended to read:

3 75.9. Upon the selection, adoption, and determination of the
4 location for a state highway or freeway, the commission shall
5 notify all planning agencies and legislative bodies having
6 responsibility pursuant to Section 65300 of the Government Code
7 for the adoption of the general plan or plans in the area affected
8 by ~~such~~ *the* commission action. Within 90 days after receipt of
9 such notice, all ~~such~~ planning agencies and legislative bodies shall
10 revise the circulation *and transportation* element of their general
11 plans to reflect ~~such~~ *the* commission action.

12 SEC. 7. Section 21101 of the Vehicle Code is amended to read:

13 21101. Local authorities, for those highways under their
14 jurisdiction, may adopt rules and regulations by ordinance or
15 resolution on the following matters:

16 (a) Closing any highway to vehicular traffic when, in the opinion
17 of the legislative body having jurisdiction, the highway is either
18 of the following:

19 (1) No longer needed for vehicular traffic.

20 (2) The closure is in the interests of public safety and all of the
21 following conditions and requirements are met:

22 (A) The street proposed for closure is located in a county with
23 a population of 6,000,000 or more.

24 (B) The street has an unsafe volume of traffic and a significant
25 incidence of crime.

26 (C) The affected local authority conducts a public hearing on
27 the proposed street closure.

28 (D) Notice of the hearing is provided to residents and owners
29 of property adjacent to the street proposed for closure.

30 (E) The local authority makes a finding that closure of the street
31 likely would result in a reduced rate of crime.

32 (b) Designating any highway as a through highway and requiring
33 that all vehicles observe official traffic control devices before
34 entering or crossing the highway or designating any intersection
35 as a stop intersection and requiring all vehicles to stop at one or
36 more entrances to the intersection.

37 (c) Prohibiting the use of particular highways by certain vehicles,
38 except as otherwise provided by the Public Utilities Commission
39 pursuant to Article 2 (commencing with Section 1031) of Chapter
40 5 of Part 1 of Division 1 of the Public Utilities Code.

1 (d) Closing particular streets during regular school hours for
2 the purpose of conducting automobile driver training programs in
3 the secondary schools and colleges of this state.

4 (e) Temporarily closing a portion of any street for celebrations,
5 parades, local special events, and other purposes when, in the
6 opinion of local authorities having jurisdiction or a public officer
7 or employee that the local authority designates by resolution, the
8 closing is necessary for the safety and protection of persons who
9 are to use that portion of the street during the temporary closing.

10 (f) Prohibiting entry to, or exit from, or both, from any street
11 by means of islands, curbs, traffic barriers, or other roadway design
12 features to implement the circulation *and transportation* element
13 of a general plan adopted pursuant to Article-6 5 (commencing
14 with Section-65350) 65300) of Chapter 3 of Division 1 of Title 7
15 of the Government Code. The rules and regulations authorized by
16 this subdivision shall be consistent with the responsibility of local
17 government to provide for the health and safety of its citizens.

18 SEC. 8. Section 35701 of the Vehicle Code is amended to read:

19 35701. (a) Any city, or county for a residence district, may,
20 by ordinance, prohibit the use of a street by any commercial vehicle
21 or by any vehicle exceeding a maximum gross weight limit, except
22 with respect to any vehicle ~~which~~ *that* is subject to Sections 1031
23 to 1036, inclusive, of the Public Utilities Code, and except with
24 respect to vehicles used for the collection and transportation of
25 garbage, rubbish, or refuse using traditionally used routes in San
26 Diego County when the solid waste management plan prepared
27 under Section 66780.1 of the Government Code is amended to
28 designate each traditionally used route used for the purpose of
29 transporting garbage, rubbish, or refuse ~~which~~ *that* intersects with
30 a local or regional arterial circulation route contained within a city
31 or county's traffic circulation *and transportation* element and
32 ~~which~~ *that* provides access to a solid waste disposal site.

33 (b) The ordinance shall not be effective until appropriate signs
34 are erected indicating either the streets affected by the ordinance
35 or the streets not affected, as the local authority determines will
36 best serve to give notice of the ordinance.

37 (c) No ordinance adopted pursuant to this section after
38 November 10, 1969, shall apply to any state highway ~~which~~ *that*
39 is included in the National System of Interstate and Defense

- 1 Highways, except an ordinance ~~which~~ *that* has been approved by
2 a two-thirds vote of the California Transportation Commission.
3 (d) The solid waste management plan prepared under Section
4 66780.1 of the Government Code by San Diego County may
5 designate the traditionally used routes.
6 (e) “Traditionally used route,” for purposes of this section,
7 means any street used for a period of one year or more as access
8 to or from a solid waste disposal site.